

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAMUHAMMAD KHAN,  
Plaintiff,

v.

ROBIN STRICKLIN, et al.,  
Defendants.

Case No. 24-cv-00717 BLF (PR)

**ORDER DENYING MOTION FOR  
RECONSIDERATION; OF  
DISMISSAL**

Plaintiff, a state prisoner, filed the instant *pro se* civil rights action pursuant to 42 U.S.C. § 1983. On February 9, 2024, the Court denied Plaintiff's motion for leave to proceed *in forma pauperis* because Plaintiff had not shown an adequate level of poverty: the last statement balance from his trust account was \$1,012.41. Dkt. No. 3 at 3. Plaintiff was directed to pay the full filing fee no later than twenty-eight days from the date the order was filed or face dismissal. *Id.* The Court later granted Plaintiff an extension of time to pay the filing fee by March 22, 2024. Dkt. No. 13.

Plaintiff filed a "reply" to the court order denying IFP, challenging the denial or alternatively, requesting he be allowed to submit updated statements. Dkt. No. 22. This appears to be a motion for reconsideration. No pre-judgment motion for reconsideration under Local Rule 7-9 may be brought without leave of court. *See* Civil L.R. 7-9(a). The moving party must specifically show: (1) that at the time of the motion for leave, a

1 material difference in fact or law exists from that which was presented to the court before  
2 entry of the interlocutory order for which the reconsideration is sought, and that in the  
3 exercise of reasonable diligence the party applying for reconsideration did not know such  
4 fact or law at the time of the interlocutory order; or (2) the emergence of new material  
5 facts or a change of law occurring after the time of such order; or (3) a manifest failure by  
6 the court to consider material facts which were presented to the court before such  
7 interlocutory order. *See* Civil L.R. 7-9(b).

8 Here, Plaintiff did not first request leave of Court before filing the motion for  
9 reconsideration as required under Local Rule 7-9. As such, the Court will construe the  
10 motion as one for leave to do so and analyze whether he has satisfied any of the  
11 requirements under Rule 7-9(b). He has not, as Plaintiff's arguments do not involve any  
12 material difference in fact or law, nor was there a manifest failure by the Court to consider  
13 material facts before it. A prisoner's *pauper* status is evaluated at the outset of the action  
14 as indicated by the supporting papers which must accompany the IFP application. *See* 28  
15 U.S.C. § 1915(a)(2). Plaintiff's last statement balance clearly indicated an ability to pay at  
16 the time of filing. Accordingly, there was no error in denying the IFP application. The  
17 motion is **DENIED**.

18 The deadline has passed, and Plaintiff has failed to pay the filing fee. Accordingly,  
19 this matter is **DISMISSED** for failure to pay the filing fee.

20 **IT IS SO ORDERED.**

21 **Dated: \_\_April 11, 2024\_\_**

  
22 BETH LABSON FREEMAN  
23 United States District Judge  
24

25 Order of Dismissal  
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